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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,722	01/05/2004	Bobby Hu	2186-00500 DVF	2253
23505	7590	12/02/2005	EXAMINER	
CONLEY ROSE, P.C. P. O. BOX 3267 HOUSTON, TX 77253-3267			SHAKERI, HADI	
			ART UNIT	PAPER NUMBER
			3723	
DATE MAILED: 12/02/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/751,722

Applicant(s)

HU, BOBBY

Examiner

Hadi Shakeri

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 062404 & 062804.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION*****Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 9 recites the limitation "the axis" in lines 4 and 5. There are insufficient antecedent bases for these limitations in the claim. Is applicant referring to a longitudinal axis (along the length of the handle) or an axis parallel to the axis of rotation?

***Claim Rejections - 35 USC § 102***

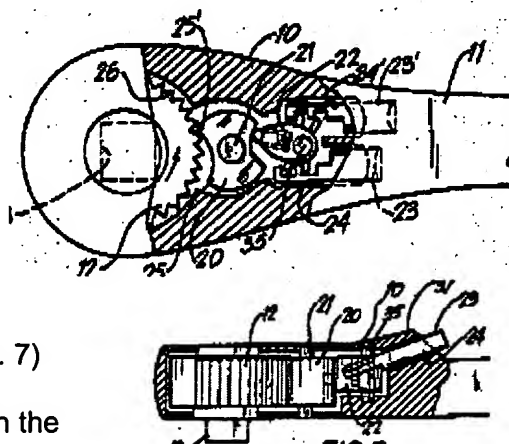
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7-13, 15 and 16 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Deibert (4,336,728).

Deibert discloses all the limitations of claims 1 and 9, i.e., a handle; a head extended from the handle; a cavity (accommodating the pawl) disposed in a web between the handle and the head; a compartment (accommodating the switch) (circular, Fig. 7) disposed in the web having one end communicated with the pawl and a second end communicated with outside (through opening accommodating 23),



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thereby leaving a bridge (37) in the web; a drive member (12) rotatably mounted in the head, with the drive member including a plurality of teeth formed on an outer periphery thereof (26); a pawl (20) including a first side with a plurality of ratchet teeth (25, 25') for releasably engaging with the teeth of the drive member, with the pawl further including a second side with a recess (26); a rotatable switch member (22, 23) including a turn-piece (23) for manual operation and an actuating plate (22) extended from the turn-piece, the switch member being switchable between two positions for changing ratcheting direction of the drive member, with the actuating plate of the switch member including a first receptacle (32) that faces the recess of the pawl and that has a first end wall; an elastic element (31); and a peg (30), with the peg having a first end movably received in the recess of the pawl and a second end, with the second end of the peg being received in the first receptacle, with the peg and the elastic member being rotatable with the actuating plate and biasing the ratchet teeth of the pawl to engage with the teeth of the drive member.

Regarding claims 2-5, 7, 8, 10-13, 15 and 16, Deibert meets the limitations, i.e., elongated member engages a recess in the pawl and the receptacle in the switch member; pawl having a curved second side.

### ***Claim Rejections - 35 USC § 103***

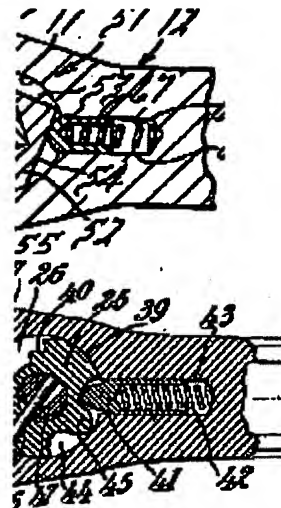
6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deibert (4,336,728) in view of either Rozmus (3,490,317) or Kress (1,957,462).

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Deibert meets all the limitations of the above claims, as indicated above, except for the elastic element to be partially disposed within the elongated member. Rozmus and Kress each, teaches spring loaded plungers in which the peg or the plunger has a receptacle accommodating the spring. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Deibert with the spring loaded plunger as taught by either Rozmus or Kress for ease of assembly.



### ***Double Patenting***

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-16 rejected on the ground of nonstatutory double patenting over claims 1-37 of U. S. Patent No. 6,282,992 in view of prior art cited above. The subject matter claimed in the instant application is anticipated in the patent, except for the elastic member to be within the elongated member, an obvious modification in view of prior art cited above.

10. Claims 1-16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21-25, 40, 41, 57, and 59069 of copending Application No. 09/942,061 in view of prior art cited above.

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This is a provisional obviousness-type double patenting rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is 571-272-4495. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Hadi Shakeri', with a stylized flourish extending to the right.

Hadi Shakeri  
Primary Examiner  
Art Unit 3723  
November 28, 2005